

DURHAM CITY-COUNTY REZONING PROCESS

The Rezoning Process

A rezoning request is heard by the

- Zoning Committee, which makes advisory recommendations to the City Council and Board of County Commissioners; and
- City Council or Board of County Commissioners, which decides on the request.

The rezoning process, from submittal deadline to final action by the deciding body, requires about 15 weeks, unless a small area plan amendment is required. However, delays may occur and should be allowed for.

Pre-Submittal Conference

Persons interested in rezoning property can set up the **required pre-submittal conference** by contacting the Department via e-mail, or at 560-4641 (fax). Registration for a conference must be filed by 9 am on Tuesday of the week the presubmittal conferences are held. The purposes of this pre-submittal conference are to ensure that the request is appropriate to achieve the applicant's intention, and to review the rezoning process, deadlines and other pertinent information with the potential applicant.

Submittal

The application submittal deadline is **noon on the second Monday of each month**. Rezoning applications will **not be accepted unless the application package is complete**, including the storm drainage analysis, the building design guidelines and the traffic impact analysis, if required.

Each rezoning application is circulated to planning staff and to other City and County departments for their comments. The staff reviews these comments and prepares a report and recommendations for each case. The staff report is available to applicants and interested citizens by the week preceding the Zoning Committee meeting, on the Department's internet web site, at the Department office and at all full-time Durham County Libraries.

Only those development-plan cases whose plans meet ordinance requirements and adequately reflect review comments will be scheduled for Zoning Committee consideration. Similarly, only those development-plan cases with completed drainage and traffic impact reviews will be scheduled. Since each re-review cycle requires two weeks, plan accordingly.

Small Area Plan Amendment

If the adopted plan for the rezoning site does not support the rezoning request, a small area plan amendment must also be filed. The rezoning case is not scheduled for Zoning Committee hearing until the plan amendment has been scheduled for the Planning Commission. The application deadline for Plan Amendments is 45 days in advance of the Planning Commission's quarterly meeting.

Procedure before the Zoning Committee

The Zoning Committee typically meets

- The second Tuesday of each month
- At 6 p.m.
- In the City Council Chambers on the first floor of City Hall. Additional meetings may also be scheduled to handle the caseload ready for consideration.

After a summation of the staff report, applicants are to present their case for the request. The Zoning Committee will hold a public hearing on each rezoning request, allowing 10 minutes for proponents and 10 minutes for opponents. Both sides may reserve a portion of their time for rebuttal.

After the hearing, the Committee may ask questions of the public and staff, and then may vote on a recommendation. Typically, the Zoning Committee has up to 90 days from the date of the hearing to make their recommendation. **The most common cause of a delay is insufficient communication between applicant and neighboring property owners.** It is recommended that applicants make early contact with area property owners and associations.

Notification typically includes:

- Notice published in the Durham Herald-Sun newspaper
- A sign posted on or near the property
- Notification letters to property owners within 300 feet of the site if it is within City limits, or within 600 feet if it is outside the City. These are typically mailed 10 days prior to the Zoning Committee meeting.
- Notification letters to those neighborhood organizations within a 1000-foot radius of the site that have provided the Department with current contact information. The applicant is required to provide notice to these organizations as part of the submittal, and the Department presently provides notification about two weeks after the submittal, and again about 3 weeks prior to the hearing held by the elected body.

Rezoning requests are public information as soon as they are filed. Please be aware that the media typically review the new submittals immediately after the deadline and may be contacting residents for comments the same day the case is submitted. The new cases are also posted on the Department's web site. *It is to the applicant's advantage that the submittal not take residents in the area of their request by surprise.*

Please note that the Zoning Committee has adopted a policy of not accepting changes to the development plan after their agenda has been mailed to them; they will hold their hearings only on the material delivered by staff as part of the agenda package. A one-month delay in the hearing will be applied if changes are proposed after the agenda package mail-out.

Occasionally an applicant, an adjoining property owner or a neighborhood group may desire the postponement of a rezoning hearing to allow additional time to review the proposal or address concerns, prior to the hearing.

- A deferral requested at least 12 workdays prior to the Zoning Committee meeting is granted automatically. The request must be in writing, and is to be accompanied by two sets of mailing labels and a fee equivalent to postage if the request is received after the ad or notice letters have gone out. A request may be granted for up to 30 days. Any individual or group may file one deferral request, with the total deferrals not to exceed 60 days. Only one such request from the applicant and only one such request from anyone else can be granted.
- Later deferral requests can be granted by Zoning Committee by majority vote. The Committee can agree to delay the hearing before it is opened, and has up to 90 days to review a case once the hearing is opened before they must forward it to the governing body. Anyone requesting a deferral within this time frame makes his or her request of the Committee the evening of the hearing.

Procedure before the City Council and Board of County Commissioners

The **Council** typically meets:

- In City Council Chambers, first floor of City Hall
- Starting at 7 p.m.
- On the first and third Mondays of each month.

The **Board** typically meets:

- In the Board Chambers, second floor of the renovated County Courthouse
- Starting at 7 p.m.
- On the second and fourth Mondays of each month.

Notification will again be sent to surrounding property owners, typically about 2 ½ weeks prior to the hearing. Newspaper ads will also be run in the Herald Sun. These hearings typically take place the month after Zoning Committee. Schedule questions can be directed to the Planning Department Information Desk staff at 560-4137 ext 214 or 261, or checked on the Department's web site at www.ci.durham.nc.us/departments/planning/.

The City Council (for property within city limits) or the Board of County Commissioners (for county-only requests) makes the decision on the request, following their public hearing. The Council or Board may approve or deny a request, continue it, or send it back to the staff or the Zoning Committee for more information. They may approve a request at a less intensive zoning classification or for less area than originally requested, with the consent of the applicant.

Deferral requests are handled in the same manner as those requested of the Zoning Committee. An applicant may also choose to withdraw a rezoning request. If this is done in writing up to 12 workdays prior to the scheduled Council or Board hearing the request will automatically be granted. The City Council or Board of County Commissioners may grant any other withdrawal request at its discretion.

No previously withdrawn application may be re-submitted until a minimum of 6 months has elapsed since the date of withdrawal. Once a case has been approved or denied, no request for a similar amendment may be filed until at least 12 months have elapsed since the date of the action. These time limitations may be waived if the application requests a substantially modified proposal or there has been a significant change in facts or circumstances since the previous request.

Protest Petition Against Rezoning Requests

Opponents may protest a proposed change by filing a protest petition. Without a valid protest petition a request requires a simple majority vote for approval (i.e. 4 in the City, 3 in the County). A valid protest petition requires a favorable vote by a super-majority of the elected body for approval of the rezoning (i.e. 6 in the City, 4 in the County). Protest petition forms are available on-line, and from the Planning Department, City Clerk's office and County Clerk's office. They must be completed and filed with the appropriate Clerk's office at least four workdays prior to the date of the public hearing. (This is usually the Monday preceding a Monday Council or Board meeting.) The Attorney's office determinates whether the petition is valid.

To be valid, the petition must be signed by the owners of

- 20% of the property proposed for rezoning; or
- 20% of the property within 100 feet and adjacent to the site or the rear of the property proposed for rezoning; or
- 20% of the property directly opposite the property proposed for rezoning and extending 100' from the street front on the opposite property.

Each property will need the signatures of all persons, including spouses, who have an ownership interest, the same as required on the property deed. This also applies to withdrawal of petition signatures. Significant changes to an in-process Development Plan or request invalidate a protest petition submitted under the earlier (D) or request.

Development Plans

Development Plans are required with rezoning requests to SC, I-1, MU, PDR or RM-CN. An applicant may choose to submit a development plan with any other rezoning request. A development plan is a general design plan for development of the property, showing proposed building footprints, parking areas, entrances, buffers and the like. While an applicant may choose to provide information beyond this, the plan is not intended to be as detailed as a site plan.

Property zoned with a Development Plan (D) has a continuing obligation to be developed in conformance with that (D), even if the ownership changes. Development and use of the property is to conform to both the underlying ordinance requirements for that zone and the layout and design shown on the approved (D) plan. Any significant design changes from the approved development plan would require going through the rezoning process again.

BOTH THE VALIDITY OF THE ZONE CHANGE REQUEST AND THE ACCEPTABILITY OF THE PROPOSED DEVELOPMENT PLAN ARE REVIEWED AS PART OF THE DECISION-MAKING ON THE REQUEST.

A Traffic Impact Analysis will be required as part of a (D) rezoning application when the development proposed would generate 150 or more vehicle trips at peak hour. Storm Water Analysis is required with most (D) requests, and Building Design Guidelines are a part of the submittal for all (D) requests other than for detached single family.

If your (D) or PDR zoning is approved, six corrected prints are needed for approval stamping before the case is considered closed. No subsequent site plan or subdivision plan can be considered unless a signed, stamped Development Plan is on record.

With approval of your zone change request you may proceed with other necessary permits and approvals.

For more information, please contact:
Durham City-County Planning Department
Ground floor of City Hall
Phone 919 560-4137
Fax 919 560-4641
Web site: www.ci.durham.nc.us/departments/planning/